

Good afternoon Madam Chairwoman and members of the SubCommittee. Thank you for the invitation to testify on our experience with implementation of the Paperwork Reduction Act. My name is Kevin Barrett and I am currently an industrial hygiene and safety consultant. I worked in the chemical industry for 18 years, and as a consultant I continue to provide support to chemical industry clients. I am testifying here today on behalf of the Synthetic Organic Chemical Manufacturers Association, also known by the acronym “SOCMA”, a trade association representing the interests of custom and specialty chemical manufacturers, 70% of whom are small businesses.

My comments today focus on two particular weaknesses in implementing the Paperwork Reduction Act, specifically: the cumulative effect of numerous regulatory requirements on affected facilities; and the inaccurate calculations of the burden required by specific regulations. Federal regulators have made significant strides in assessing and reducing the readily identifiable burdens, but regulatory burden still weighs on the chemical industry in terms of both cost and paperwork. We have picked all of the metaphorical “low-hanging fruit” of paperwork burden reduction and must now reach higher.

What I mean by the cumulative effect of regulatory requirements is the number of records and reports a facility is responsible for, including both overlapping and separate requirements imposed by state and Federal regulators. In many cases, states are free to impose tougher standards on industry than are imposed by the Federal government. The results are often regulatory strategies with similar goals, but very different requirements.

Consider the experience of one typical SOCMA member company. This company is a small, single-plant company with approximately 110 employees and only one full time employee dedicated to environment, health, and safety issues. It is subject to over 150 state and Federal environmental regulations, must keep records to satisfy 98 different regulatory requirements, and is obligated to submit at least 48 environmental reports per year. Alone, none of these requirements seems unbearable. Only when they are aggregated is the extent of the regulatory burden clear – especially when it all falls on the shoulders of a single environmental health and safety professional.

In addition to not capturing the burden associated with cumulative requirements, the Act enables agencies to be overly conservative in their assessment of burden imposed by a particular regulatory requirement. This consistent under-estimating of regulatory burden prevents Congress, the federal regulators, and interested citizens from understanding the full scope of the regulatory burden imposed on an industry.

One prime example of both cumulative effects and underestimating burden is the EPA's Toxic Release Inventory reporting requirements. This rule has been a major focus of EPA's burden reduction efforts over the past several years, and EPA has claimed positive results. At the time of EPA's last Information Collection Request to the Office of Management and Budget, the burden for repeat filers dropped from 47.1 hours to 14.5 hours. In contrast, one SOCMA member, who is a repeat filer, spent approximately 250 hours completing his TRI reports in 2003. Additional requirements imposed by the State add another eighty hours to this total.

A second example of an agency's underestimation of reporting burden is evident in OSHA's lockout/tagout burden calculations. This rule addresses the safety of work on equipment that, if unexpectedly energized during servicing or maintenance, could cause injury. In their most recent Information Collection Request to the Office of Management and Budget, OSHA calculated the burden of compliance with this program at anywhere between fifteen seconds and eighty hours.

The low end estimates do not appear realistic. Specifically, ensuring compliance with each written lockout procedure requires an annual inspection of that procedure, which must be documented in a written certification for each occurrence. In addition, the training provisions require written certification of training and any retraining performed. Considering these and the other requirements, one SOCMA member calculated the low-end of the annual burden for lockout/tagout at about seven hours per facility. Again, this does not sound like much, but it is almost a full day's work, and is significantly more than fifteen seconds. If aggregated over the 818,532 respondents identified by OSHA, and if every respondent only spends the minimum 7.5 hours, OSHA would need to double their estimate of total burden hours.

In conclusion, focusing attention on the Paperwork Reduction Act provides a promising opportunity for OSHA, the EPA and the regulated community to reassess existing requirements, specifically the problems caused by the cumulative effect of numerous regulatory requirements and inaccurate calculations of burden. We hope that agencies

actively engage the regulated community on future burden reduction efforts in order to enhance American small business competitiveness in the global economy. Thank you for your invitation to present our views today. I am happy to answer any questions you might have.